IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUMMARY SUIT NO.5049 OF 1999

Smt. Daksha K. Sanghavi ..Plaintiff.
Vs.
M/s. Aishaar Enterprises & Anr. ..Defendants.

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Mr. Pravin Patel i/ Pradip Shukla & Co. for the Plaintiff.
None for the Defendants.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

10th April, 2007.

P.C. :

1. The claim in the Summary Suit under Order 37 of the Code of Civil Procedure 1908 is based on goods sold, supplied and delivered by the Plaintiff to the Defendants. The amount outstanding as of 31st March, 1997 was Rs.14,96,403.40. The last payment was made on 19th August, 1996 in the amount of Rs.45,240/- leaving a balance of Rs.9,54,014.40. By a letter dated 27th March, 1997, the Defendants confirmed their liability.

2. The Defendants have not entered appearance despite

service of the writ of summons. The Plaintiff has tendered a compilation of the original documents. The letter dated 27th March, 1997 was received by the Plaintiff through a facsimile transmission. Counsel appearing for the Plaintiff has drawn the attention of the Court to the endorsement which was subsequently made by the Defendant thereon in person stating that 'C' Forms would be remitted on or before 30th June, 1997. The claim of the Plaintiff is duly established on the evidence on the record. Even otherwise, the Plaintiff would be entitled to a decree under Order 37 since the Defendants have failed to enter appearance. The suit shall accordingly stand decreed in terms of prayer clauses (a) and (b), subject to the modification that the Plaintiff will be entitled to interest at the rate of 9% per annum from the date of the institution of the suit until the date of the decree and at the same rate from the date of the decree until payment or realization.

Refund of Court Fess, if any, as per rules.